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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,758	10/23/2003	Kivin Varghese	VAR-3	2757
52447	7590	05/12/2008	EXAMINER	
PATENTBEST			NGUYEN, VAN KIM T	
4600 ADELINE ST., #101			ART UNIT	
EMERYVILLE, CA 94608			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,758	<b>Applicant(s)</b> VARGHESE, KIVIN	
	<b>Examiner</b> VAN KIM T. NGUYEN	<b>Art Unit</b> 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 46-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>None</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is responsive to communications filed on April 3, 2008.

Claims 21-25, 27-32, 34-40 and 42-45 have been cancelled, claims 46-66 have been added; hence claims 46-66 are pending in the application.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 3, 2008 has been entered.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 21-25, 27-32, 34-40 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 46-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (US 2004/0181487), in view of Gang et al (US 7,075,000), hereinafter Gang.

Regarding claims 46, 55, and 65-66, Hanson discloses a method for allowing users to share and be compensated for sharing media files using a website, comprising:

allowing a first user of a plurality of users to upload a first media file to a website and to assign a user-desired fee to the first media file, the user-desired fee to be collected each time the uploaded media file is accessed by another user (i.e., user can upload files to a central server [0005] and set a offering price for the media file, e.g., a song sampled at 128Kbps and transferred over a connection at 300 Kbps would cost \$0.99, payable for the download [0040-0041];

providing a media file listing to the plurality of users, the media file listing including the first media file (i.e., metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network, comprising attributes such as content name, description and related information such as track name, artist, composer, album name, etc. [0047-0048]);

in response to new requests for the first media file from the plurality of users, collecting at least the user-desired fee from each of the plurality of users who requests the first media file and, if the collecting is successful (i.e., user A request a download and is charged \$0.99 as agreed for the download [0041]);

providing access to the first media file to each of the plurality of users from whom at least the user-desired fee has been collected (i.e., user A downloads the requested and paid for file [00410]);

crediting the first user who uploaded the first media file with an amount at least equal to the user-desired fee each time that access to the first media file is provided (i.e., crediting the

digital content right owner's account with the digital content right owners' set charge for downloading the song [0041] and [0068]),

wherein any of the plurality of users may upload a media file and any of the plurality of users may access a media file through the website (i.e., user can become a provider by registering content on the DMCHP 200 and setting prices, reviewing purchase history, and reconciling accounts, etc. [0065]).

Hanson also discloses a provider rating [0040]. However, Hanson does not explicitly call for providing at least an indication of the popularity of the first media file, the indication of popularity being based, at least in part, on ratings supplied by those of the plurality of users who have accessed the first media file; allowing ones of the plurality of users who accessed the first media file to rate the first media file, and updating the indication of the popularity of the first media file based on the ratings.

Gang teaches an indication of the popularity of the first media file, the indication of popularity being based, at least in part, on ratings supplied by those of the plurality of users who have accessed the first media file (i.e., "Top 20"; Figures 2-5; col. 15: lines 37-44);

allowing ones of the plurality of users who accessed the first media file to rate the first media file, and updating the indication of the popularity of the first media file based on the ratings (i.e., "My Favorite"; Figures 2-5; col. 15: lines 14-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Gang's method of rating musical preference in Hanson's online distribution of digital content, motivated by the need of providing some buying guidance to buyers and as the same time, gauging musical tastes and preferences of consumers.

Regarding claim 47, Hanson-Gang also discloses the total compensation paid to the first user in connection with the first media file comprises the user-desired fee assigned to the first media file multiplied by the number of times the first media file is newly requested (i.e., user A request a download and is charged \$0.99 as agreed for the download. It is obvious, content server will charge every time the file is downloaded; Hanson [0041] and [0068]).

Regarding claim 48, Hanson-Gang also discloses providing repeated access to the first media file within access limits, such that beyond the access limits, if access to the first media file is requested again, the request is treated as a new request and the user-desired fee is collected again (i.e., a limited use by a receiver of the download content for proper tracking content; Hanson [0055-0058]).

Regarding claim 49, Hanson-Gang also discloses a new request for the first media file comprising a request for the first media file for which at least the user-desired fee associated with that media file is collected from the user who requests access (i.e., user A request a download and is charged \$0.99 as agreed for the download. It is obvious, content server will charge every time the file is downloaded; Hanson [0041] and [0068]).

Regarding claim 50, Hanson-Gang also discloses accepting additional information about the first media file (i.e., metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network, comprising attributes such as content

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name, description and related information such as track name, artist, composer, album name, etc., Hanson [0047-0048]).

Regarding claim 51, Hanson-Gang also discloses the additional information comprises any of, or a combination of, level information, title information, or description information (i.e., metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network, comprising attributes such as content name, description and related information such as track name, artist, composer, album name, etc., Hanson [0047-0048]).

Regarding claim 52, Hanson-Gang also discloses the additional information is used to match requests for media files (e.g., content name, description, content owner, pricing to be paid, etc., Hanson [0047-0053]).

Regarding claim 53, the first media file is in a format selected from the group consisting of AVI, MPEG-1, MPEG-2, WMV, FLIC, multi-page TIFF, and animated GIF (e.g., images, audio and video, text, e-book, game software, other software, Hanson [0004 and 0016]).

Regarding claim 54, Hanson-Gang also discloses the first media file is of a limited and predetermined size prior to being uploaded (e.g., an image or a song, Hanson [0004 and 0016]).

Regarding claim 56, Hanson discloses a computer network-based system for facilitating the paid exchange of media files between users comprising:

at least one server in communication with a plurality of user machines through a network, each of the user machines being associated with one or more of the users (i.e., DMCHP, Figure 1, [0039]), the server being configured and adapted to:

keep user records, each of the user records including an account balance; accept media files uploaded by any of the users, each one of the media files being associated with a user-desired fee set by the user who uploaded the media file ([0041];[0047-0053] and [0068]);

accept requests for access to particular media files from any of the users and, in response to a new request for a media file from a particular user (i.e., user A request a download and is charged \$0.99 as agreed for the download; [0041]),

deduct at least the user-desired fee associated with the particular media file from the account balance of the user requesting access to the media file (e.g., DMCHP can directly debit or credit an account; [0068]),

if at least the user-desired fee associated with the particular media file is successfully deducted from the account balance of the user requesting access, provide access to the particular media file to the user requesting access ([0065-0068]);

credit the account balance of the user who uploaded the particular media file with at least the user-desired fee (i.e., crediting the digital content right owner's account with the digital content right owners' set charge for downloading the song [0041] and [0068]);

wherein the system facilitates the paid exchange of media files between users such that the total compensation paid to a user who uploads one of the media files in connection with that



media file comprises at least the user-desired fee associated with that media file multiplied by the number of times that the media file is newly requested ([0068]).

Hanson also discloses a provider rating [0040]. However, Hanson does not explicitly call for providing at least an indication of the popularity of the first media file, the indication of popularity being based, at least in part, on ratings supplied by those of the plurality of users who have accessed the first media file; allowing ones of the plurality of users who accessed the first media file to rate the first media file, and updating the indication of the popularity of the first media file based on the ratings.

Gang teaches an indication of the popularity of the first media file, the indication of popularity being based, at least in part, on ratings supplied by those of the plurality of users who have accessed the first media file (i.e., “Top 20”; Figures 2-5; col. 15: lines 37-44);

allowing ones of the plurality of users who accessed the first media file to rate the first media file, and updating the indication of the popularity of the first media file based on the ratings (i.e., “My Favorite”; Figures 2-5; col. 15: lines 14-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Gang's method of rating musical preference in Hanson's online distribution of digital content, motivated by the need of providing some buying guidance to buyers and as the same time, gauging musical tastes and preferences of consumers.

Regarding claim 57, Hanson-Gang also discloses the system provides the requesting user repeated access to the particular media file within access limits, such that beyond the access limits, if access to the first media file is requested again, the request is treated as a new request

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and the user-desired fee is collected again (i.e., a limited use by a receiver of the download content for proper tracking content; Hanson [0055-0058]).

Regarding claim 58, Hanson-Gang also discloses a new request for the particular media file comprises a request for that media file for which at least the user-desired fee associated with that media file is deducted from the account balance of the requesting user (DMCHP can directly debit or credit an account; Hanson [0068]).

Regarding claim 59, Hanson-Gang also discloses the system is adapted to accept and store additional information about the media files (i.e., metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network, comprising attributes such as content name, description and related information such as track name, artist, composer, album name, etc., Hanson [0047-0048]).

Regarding claim 60, Hanson-Gang also discloses the additional information comprises any of, or a combination of, level information, title information, or description information (i.e., metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network, comprising attributes such as content name, description and related information such as track name, artist, composer, album name, etc., Hanson [0047-0048]).

Regarding claim 61, Hanson-Gang also discloses the additional information is used to match requests for media files (e.g., content name, description, content owner, pricing to be paid, etc., Hanson [0047-0053]).

Regarding claim 62, Hanson-Gang also discloses the media files are of limited and predetermined sizes prior to being uploaded (e.g., an image or a song, Hanson [0004 and 0016]).

Regarding claim 63, Hanson-Gang also discloses the computer network comprises the Internet (Hanson, [0034]).

Regarding claim 64, Hanson-Gang also discloses the user records include user profile information (Hanson, user account metadata, [0053]).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Secure Online Music Distribution System, Wiser et al (US 6,868,403);

Method and Apparatus for Simplified Artist-Buyer Transactions, Mele (US 6,868,394);

Apparatus and Method for Inventory, Sale and Delivery of Digitally Transferable Goods, Boesjes (US 6,799,165);

Method for Creating a Database for Comparing Music, Gjerdingen et al (US 6,539,395);

Method and System for Ranking Multiple Products according to User's Preferences,  
Geller et al (US 6,236,990);

Distribution of Musical Products by a Web Site Vendor over the Internet, Fritsch (US  
6,233,682); and

Method and System for Sharing Data over Internet, Seo (US 2004/0098465).

7. Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to VAN KIM T. NGUYEN whose telephone number is (571)272-  
3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number  
for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent  
Application Information Retrieval (PAIR) system. Status information for published applications  
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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Van Kim T. Nguyen  
Examiner  
Art Unit 2152

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/Bunjob Jaroenchonwanit/  
Supervisory Patent Examiner, Art Unit 2152